

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

JOSEPH KLAULAK)	
)	
AMI JACKSON)	
)	
On Behalf of Themselves and Others Similarly Situated,)	Civil Action No.: 11-cv-00388-MOC-DSC
)	
Plaintiffs,)	<u>PLAINTIFFS' MOTION FOR</u>
)	<u>CONDITIONAL CLASS</u>
v.)	<u>CERTIFICATION UNDER</u>
)	<u>FLSA § 216(b)</u>
)	
AMERICAHOMEKEY, INC.)	
)	
Defendant.)	
_____)	

Plaintiffs Joseph Klakulak and Ami Jackson, on behalf of themselves and all others similarly situated, hereby move this Court for an order granting conditional certification of Plaintiffs' collective action overtime and minimum wage claims under the Fair Labor Standards Act (FLSA), 29 U.S.C. § 216(b).

Plaintiffs are simultaneously filing their *Brief in Support of Plaintiff's Motion for Conditional Class Certification Under FLSA § 216(b)* in support of this Motion. In their brief, Plaintiffs demonstrate that "Loan Officers" who AmericaHomeKey, Inc. ("AHKI") classified as exempt, and who have worked or are working in the last three years are similarly situated for purposes of sending notice under the FLSA because they perform the same job duties, AHKI paid them in the same manner, and AHKI uniformly classified them as exempt from overtime and minimum wage. Plaintiffs respectfully move the Court to conditionally certify under FLSA § 216(b) the following class: all Loan Officers, Mortgage Bankers, Originators, Representatives,

Account Executives¹ and other like titles who AHKI employs or employed from three years prior to the date of issuance of notice and continuing to the present.

WHEREFORE, Plaintiffs respectfully request that this Court issue an order for the following:

- a. Granting conditional class certification regarding Plaintiffs' claims under § 216(b) of the FLSA for the following classes of employees: all Loan Officers, Mortgage Bankers, Originators, Representatives, Account Executives and other like titles who are or were employed by AHKI from three years prior to the date of issuance of notice and continuing to the present;
- b. Ordering that Plaintiffs Joseph Klakulak and Ami Jackson act as class representatives on behalf of former AHKI Loan Officers, and that Rowdy Meeks Legal Group LLC act as class counsel;
- c. Ordering approval of the notice and consent form attached to Plaintiffs' brief as Exhibits 7-8;
- d. Ordering that Plaintiffs disseminate notice to class members via first class mail and email;
- e. Ordering that AHKI post the notice to class members at each of AHKI's branches where Loan Officers work in an area readily and routinely available for review by employees;
- f. Ordering that Plaintiffs can post notice on a website at which class members can electronically submit a consent form;
- g. Ordering that Defendants within fourteen (14) days provide a list of all class members set forth in paragraph (a) above with their names, last known addresses,

¹ AHKI uses these job titles interchangeably. *See*, Plaintiffs' Brief, p. 4, ¶5 .

dates of employment, job title, office location, phone numbers, social security numbers, and email addresses in an agreeable format for mailing; and

- h. Granting such other relief the Court deems just and proper.

LCvR 7.1(B) Consultation. Plaintiffs' counsel certifies that he conferred in good faith with Defendant's counsel and the parties were unable to resolve the issue of whether or not Plaintiffs are entitled to FLSA § 216(b) conditional certification of AHKI's Loan Officers.

Dated: September 29, 2011

Respectfully Submitted,

MALONEY LAW & ASSOCIATES, PLLC

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I hereby certify that on September 29, 2011, I electronically filed the foregoing using the Court's CM/ECF system which will send notification of such filing to counsel of record.

/s/ Rowdy B. Meeks
Rowdy B. Meeks, Attorney for Plaintiffs